

**FILED**

**JUN 19 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

JOHN BERRY,

Petitioner - Appellant,

v.

UNITED STATES OF AMERICA,

Respondent - Appellee.

No. 05-15620

D.C. No. CV-04-04594-MMC

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Northern District of California  
Maxine M. Chesney, District Judge, Presiding

Submitted June 12, 2006<sup>\*\*</sup>

Before: KLEINFELD, PAEZ, and BERZON, Circuit Judges.

Former federal prisoner John Berry appeals pro se from the district court's judgment dismissing his petition for writ of coram nobis, challenging his 1989

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

conviction for conspiracy to manufacture methamphetamine in violation of 21 U.S.C. § 846. We have jurisdiction pursuant to 28 U.S.C. § 1291.

Reviewing de novo, we conclude that the district court did not err in dismissing Berry's petition. *See Matus-Leva v. United States*, 287 F.3d 758, 760 (9th Cir. 2002). Fatal to Berry's claim is his failure to establish that a valid reason existed for failing to attack his conviction earlier. *See id.*

**AFFIRMED.**